Remarks

This is in response to the Official Action mailed May 31, 2007. The Applicant thanks the Examiner for the indication for allowable subject matter with respect to claims 6. Claim 6 has been rewritten in independent form and as such is allowable.

A clarifying amendment has been made to the last clause of claim 1 clarifying that it is the payload data <u>within the refined data stream</u> that occurs at the second offset relative to the header data. We respectfully submit that this represents no change in meaning or scope, as it should be clear that this last clause, following the "the retimed data stream" clause, indicates that the payload data of the last clause is within the refined data stream. However, we are not certain that that was apparent to the Examiner, so we have clarified the claimed language. No change in meaning or surrender of scope is intended. We also note that amended claims 6, 12 and 15 also includes this clarification. Furthermore, claim 15 has been amended to replace the "computer" in the last line of the preamble with "processor". New claim 16 is added to specify that the second offset is a fixed value. Support for this can be found throughout including pages 6 and 10 of the specification. New claim 17 and 18 are similar to allowed claim 6, but depends from claims 12 and 15 respectfully, for the apparatus and computer program product claims.

With respect to sections 1 and 2 of the Official Action regarding the objections to the Drawings, we respectfully submit that the objection is without merit and should be withdrawn. The Applicant respectfully submits that the Figures are fully labeled with the elements in the Figures being identified by a reference number. We respectfully submit that the Figures are fully compliant with rule 1.84.

The Applicant is unsure what the Examiner is objecting to. If the Examiner is referring to section 37 C.F.R. 1.84(o) relating to legends, we quote the rule: "Legends. Suitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner <u>where necessary for understanding of the drawing</u>. They should contain as few words as possible"(emphasis added). We respectfully submit that no such legend is necessary for understanding the drawings. The drawings, when viewed by a person skilled in the art

willing to understand, with reference to the specification, are understandable as currently on file. For example, it is clear that in Figure 2, arrow 208 points to an input communication line and arrow 210 points to an output communication line, as described on page 5 of the specification. Indeed that Applicant submits that adding a label or legend to the input communication line 208 and the output communication line 210 would needlessly clutter the figure, without improving understanding to a person skilled in the art.

Accordingly we respectfully submit that the objections to the drawings be withdrawn.

With respect to section 3 of the Official Action, the Examiner has rejected claim 15 under 35 USC 101. We respectfully submit that the rejection is without merit and should be withdrawn. Computer program product claims have been acknowledged as statutory by the Court of Appeals for the Federal Circuit since the In re Beauregard decision in 1995, (*In re Beauregard,* 53 F.3d 1583 (Fed. Cir. 1995)). We respectfully request withdrawal of the rejection to claim 15.

With respect to the rejection in section 5 to claim 15 under 35 USC 112, first paragraph, support for "a computer program product" is found word for word on page 3 of the specification (lines 12 to 15). Accordingly we respectfully request withdrawal of the rejection to claim 15 in section 5.

Regarding the rejection in section 7 of the Official Action under 35USC 102(e) alledging claims 1 to 11 are anticipated by Martin, we traverse the rejections as follows. With respect to claim 1 we respectfully submit the Martin reference fails to teach the claimed subject matter. Furthermore, the Examiner has failed to establish a *prima facie* case of anticipation, by failing to demonstrate how Martin teaches each of the claim elements, by misconstruing the teachings of Martin in column 9, lines 53 to 63. Without limiting the generality of the foregoing the rejection cites column 9, lines 53 to 63 for teaching the third clause of the claim, which recites the payload data (within the retimed data stream) occurring at a second offset relative to the header data. However the cited section simply does not teach a second offset at all, and certainly fails to teach generating a retimed data stream with a payload data occurring at a second offset relative to the header data as claimed. Accordingly we respectfully request withdrawal to the rejection to claim 1. The dependent claims are patentable for at least the same reasons and each add further distinguishing limitations for which, we respectfully submit

the Examiner has failed to demonstrate how the cited passages teach these limitation. Without limiting the generality of the forgoing, with respect to claim 3, the cited passage at column 11, lines 48 to 51, does not teach modifying the high-order pointer to indicate the second offset. Furthermore, with respect to claim 4, the cited passage at column 11, lines 48 to 51 does not teach modifying the path overhead as alleged by the Examiner. At most, the cited passage says it interprets the "H1, H2 bytes to determine the POH bytes". This does not teach or suggest modifying the path overhead at all. Furthermore, this passage refers to the respective "PI's". These are shown in Figure 2a and Figure 3 as being part of the input streams and not the output streams after the timeslot interchangers. Accordingly, these passages fail to teach the claimed subject matter. Furthermore with respect to the rejection to claim 10, the cited section does not mention switching and certainly does not mention switching based on position of the payload data within the portion of the retimed data stream as claimed. Accordingly we respectfully submit that the rejections to claims 1-5 and 7 through 11 be withdrawn.

With respect to claims 12 to 14 we respectfully submit that these claims are patentable for the same reasons. In particular the Examiner relies on the Martin reference for the third clause of claim 12, which is simply not taught for the reasons already provided. Similar comments apply with respect to claim 15.

Accordingly we respectfully submit that all of the claims are now ready for allowance and a Notice of Allowance is respectfully requested.

No fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account.

Respectfully submitted,

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